



U.S. Department of Justice

*United States Attorney
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August 23, 2012

Honorable Katharine S. Hayden
U.S. Courthouse & Post Office Building
Federal Square
Newark, New Jersey 07101

SENT BY ELECTRONIC MAIL

Re: United States v. Anselmo Genovese
Crim. No. 11-164

Dear Judge Hayden:

On or about July 11, 2012, this Court sentenced defendant Anselmo Genovese to a probationary term of three years with a special condition of eight months of home confinement. The United States submits this letter in opposition to the request of defendant Genovese to modify the terms of his home confinement.

Genovese has two children that visit him every weekend, and for additional unscheduled visits during the week. His electronic monitoring device¹ does not reach the yard of his residence. Genovese has requested that this Court enter an Order permitting him to "enter the yard of his residence between 7:00 a.m. and 9:00 p.m. whenever either of his children are present." The government opposes this request for several reasons.

First, once the electronic monitoring device is deactivated due to the children being "present" the Probation Office will have no way to monitor whether Genovese is in fact in his yard or somewhere else during the 7:00 a.m. to 9:00 p.m. time frame.

Second, Genovese has already been given permission to leave his residence for employment purposes. In this regard, he has provided Probation with a work schedule of 5:00 a.m. until 9:00 p.m. from Monday to Saturday. Thus, Genovese is already

¹ Probation Officer Javier Enciso advised that the electronic monitoring equipment was activated on August 21, 2012.

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permitted to be out of his home 16 hours a day for "work" purposes. The only day of the week that Genovese is actually at home is Sunday. If the Court were to permit Genovese an additional 14 hour window to be in the "yard," it would, for all practical purposes, render the "home confinement" aspect of Genovese's sentence a complete nullity, and would not provide just punishment for the instant offense, see 18 U.S.C. § 3553(a)(2)(A).

Third, the existing home confinement terms do not prevent the children from using the "yard" when they visit the defendant. To the extent that the children require supervision in the yard, it should be incumbent upon the defendant to make the necessary arrangements. Defendant has both the family support² and financial resources to make that happen. Moreover, it is my understanding that the home itself provides ample means of entertainment for the children, including a gym and basketball court. Moreover, given that the defendant will be on home confinement during the fall and into the winter months, the children's use of the yard until 9:00 p.m. at night appears unlikely.

For all these reasons, the government respectfully requests that this Court deny the current application.

Respectfully submitted,

PAUL J. FISHMAN
United States Attorney

s/ Leslie F. Schwartz
By: LESLIE F. SCHWARTZ
Assistant U.S. Attorney

cc: Gerald L. Shargel, Esq. (by e-mail)
Javier Enciso, U.S.P.O. (by e-mail)

² In this regard, defendant's fiancée resides with the defendant at his residence in Staten Island. (PSR at ¶ 99.)

